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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,971	10/15/2003	Andrea Koerselman	42280.2400	7935
20322 7590 06/12/2007 SNELL & WILMER L.L.P. (Main) 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202			EXAMINER BLAKE, CAROLYN T	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 06/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/685,971	KOERSELMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carolyn T. Blake	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7,9-11 and 13-33 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-19 and 27-33 is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,20,21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 22 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 25, 2007 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by van Berkel (2196,371).

Van Berkel discloses a food cutting device as claimed, including: a body (2) having a first longitudinal edge and a blade (3) configured such that the cutting edge of said blade is a predetermined distance from a surface associated with said body; a food holder (including 5, 8) connectable to said body by a guide (arm member connected to 5, not numbered) located at a first end of said food holder, said guide configured to slidably connect to said first longitudinal edge of said body to thereby bring a food item in contact with said blade, said food holder further configured to hinge about said first end to allow simultaneous sliding and rotation of said food holder relative to said first longitudinal edge.

***Claim Rejections - 35 USC § 103***

4. Claims 20, 21, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Berkel.

Van Berkel discloses a food cutting device as claimed, including: a body (2) having a first longitudinal edge and a blade (3) configured such that the cutting edge of said blade is a predetermined distance from a surface associated with said body; a food holder including a portion (handle 8) and a pusher portion (5), said food holder being connectable to said body by a guide (arm member connected to 5, not numbered) located at a first end of said food holder, said guide configured to slidably connect to said first longitudinal edge of said body to thereby bring a food item in contact with said blade, said food holder further configured to hinge about said first end to allow simultaneous sliding and rotation of said food holder relative to said first longitudinal edge.

Van Berkel fails to disclose portion 8 of the food holder is hollow. However, the examiner takes Official notice it is old and well known in the art to manufacture components, particularly handles, in hollow form in order to reduce material and weight. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the van Berkel handle hollow in order to reduce material and weight.

***Allowable Subject Matter***

5. Claims 13-19 and 27-33 are allowed.

6. Claims 22 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed May 25, 2007 have been fully considered but they are not persuasive.

Applicant argues van Berkel does not disclose "a body having a first longitudinal edge; and a blade." Applicant reasons the van Berkel body (carriage 2) is movable, whereas the blade (3) is stationary, and therefore the blade cannot be part of the body assembly. This is incorrect. Because there is a comma after the limitation disclosing the body, the examiner interprets this to mean the body and the blade are two separate assemblies. If this were not the case, the limitation requiring the blade to be "configured such that the cutting edge of the blade is a predetermined distance from a surface associated with said body" (claim 1, lines 2-4) would be indefinite since the blade cannot be both part of the body and a distance from the body.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Thursday, 7:00 AM to 5:30 PM EST.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

CB

June 6, 2007



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER